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Agenda items 5 and 9

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

CONSIDERATION OF THE FINAL OUTCOME OF THE WORLD CONFERENCE, TAKING INTO CONSIDERATION THE PREPARATORY WORK AND THE CONCLUSIONS OF THE REGIONAL MEETINGS

Note by the Secretariat

Letter dated 28 April 1993 from the Permanent Representative of Colombia to the United Nations Office at Geneva addressed to the Secretary-General of the World Conference on Human Rights

Through this letter I wish to inform you that, on behalf of the Colombian Government, the Permanent Mission of Colombia authorizes publication of the speech made by Ambassador Luis Fernando Jaramillo at The American University in Washington as an official document of the Preparatory Committee for the World Conference on Human Rights.

(Signed): Eduardo Mestre Sarmiento
Ambassador

Her Excellency, Queen Noor of Jordan
Mr. Joseph D. Duffey, President of The American University;
Mr. Louis W. Goodman, Dean of the School of International Service;
Mr. Clovis Maksoud, Director of the Center for the Study of the Global South;
Professor Richard Falk;
Special Guests, Ambassadors, Ladies and Gentlemen,

I would like to thank The American University, and in particular the Center for the Study of the Global South of The School of International Service, for offering me the opportunity to take part with such distinguished fellow panellists in this conference on "Human Rights For the Twenty-First Century: Perspective From the Global South." The university is holding this conference at a most timely moment, since we are in the final stages of preparation for the World Conference on Human Rights which will take place in Vienna in June. This meeting has generated high expectations not only for member States of the United Nations, but also for individuals around the world. The results, therefore, must be made to rise to the level of the expectations, bringing about a truly universal culture of human rights.

I would, therefore, like to put forward a number of ideas on the conceptualization of human rights as seen by the developing countries, and, in particular, by Latin America and the Caribbean.

The defence and promotion of human rights requires a clear definition of the concept so as to avoid excesses and confrontations between States and between individuals within the same State. Human rights must be understood as a whole. This means, in the indivisibility, universality, objectivity, impartiality, interdependence and non-selectivity of the same, and it is a responsibility to comply with these obligations that no State can refuse.

The interdependence and indivisibility of human rights

By interdependence and indivisibility we mean the defence and promotion of economic, social and cultural rights along with political and civil rights.

It is necessary to recall that economic, social and cultural rights, known as the second generation of human rights, were elevated to constitutional norms at the beginning of the century by the democracies. They were not considered as an additional element of protection, since, without their minimal fulfilment it is not possible to enjoy effective political and civil rights. If there is no respect for human dignity, in so far as the material conditions of existence go, then the classical rights of liberty and equality are unattainable. If societies are not able to make effective economic, social and cultural rights, then political and civil rights are an illusion. Conversely, without putting into effect political and civil rights, the economic, social and cultural rights would be totally irrelevant. These two groups, therefore, are the two sides of a coin. We see with concern the tendency of the industrialized world to emphasize a defence and promotion of human rights, understood as political and civil rights, while ignoring the other side of the coin. There is an attempt within this narrow and biased view to condemn States for violating human rights and to intervene in the internal affairs of other countries as part of a new strategy of "accused and accusers," as if their violation were not an evil that afflicts the whole of

humanity, and all States. The majority of the developing countries consider that a guarantee of human rights is the obligation of every State and the right of every individual. It is part of the concept that peace, democracy, development and social well-being are indispensable to the full enjoyment of human rights.

The right to development

It is indispensable that broad, international cooperation not be selective or discriminatory. This would permit the countries in the South to reach a level of development that would guarantee minimal levels of subsistence in order to attain the effective enjoyment of fundamental rights. I refer here to the "Right to Development" which is an inalienable right, as established in the Declaration approved by the United Nations in 1986.

Despite the multilateral acceptance of this concept, however, its application has been precarious until now. The International Monetary Fund, in a report presented to the United Nations, complains of the low level of official development aid and the difficulties in assisting the countries that are undergoing fundamental adjustments in their economies. The direct consequence is lower and lower rates of growth in the developing countries, which leads to a vicious circle of poverty, where a realization of basic rights is impossible.

In order to guarantee the effective enjoyment of economic, social and cultural rights it is necessary to have resources for development, which come primarily from trade and, of course, from international cooperation for development. All the countries of the world have a measure of responsibility for the process and many of them have not yet seriously faced this obligation. It is not a matter of begging for resources but of complying with shared obligations that have been acquired multilaterally and voluntarily on many occasions.

Intervention for humanitarian reasons

The United Nations system is debating over the search for efficient mechanisms for ending the massive violations of human rights, to protect those persons who are displaced inside their own territories and, on the other hand, to respond to natural catastrophes.

During the last few years the thesis of intervention for humanitarian reasons has been accepted under the French doctrine of Professor Bettati and Dr. Kouchner, known as the "duty to intervene." Under this doctrine in 1988 a resolution was passed in the United Nations denominated "Humanitarian Assistance for Victims of Natural disasters and Similar Emergency Situations." In 1990 the concept is broadened with the establishment of humanitarian aid corridors. In 1991 the "duty to intervene" is incorporated by the Security Council, which approves Resolution 688 to protect the Kurds in Iraq, Resolution 733 in January 1992 authorizing intervention in Somalia, and finally, measures regarding the conflict in former Yugoslavia. These acts of intervention for humanitarian reasons were based on the need to protect displaced civilian populations in their own territories and the massive violations of human rights.

Without condemning or approving said actions, it is necessary to watch very closely in order to avoid generalizations that could lead to intervention in the internal affairs of States.

The politicization of the humanitarian assistance and the promotion of human rights has been a matter of concern not only for developing countries, but also for senior international officials. UNICEF, in a recent report presented to the Executive Committee, stresses that its humanitarian aid has been limited and seriously hampered by a number of political factors. And the President of the International Red Cross in the past General Assembly expressed his preoccupation and said that "by tying the humanitarian to politics we run the risk of rejecting the humanitarian in the name of politicas."

The same occurs with "conditional cooperation." It could be lost and not reach the beneficiaries which, in general, are the most vulnerable populations, since States prefer not to receive it rather than accept the intervention in their internal affairs.

The universality of human rights

Returning to the matter of the conceptualization of human rights, I would like to talk about universality. When we speak of the universality of human rights we refer to the need to approach all those phenomena that afflict humanity without distinction or bias. Human rights violations is not a phenomenon only of the South. Recent manifestations of systematic and flagrant violations of human rights in some countries in the North, such as the alarming intolerance, racial discrimination, xenophobia, neo-Nazism, ethnic cleansing and abuses of migrant populations are crimes against humanity. Discrimination is the absolute negation of the United Nations charter and a violation of the liberties and most elemental rights proclaimed in the Universal Declaration, the international pacts and specific accords on the fight against discrimination.

The panorama at present is worrying. Despite the greater awareness of the international community in relation to the principles of dignity and equality inherent in all human beings, and aside from the law and the rhetoric, new expressions of racism and discrimination are seriously altering social harmony, and threatening the validity of human rights and respect for them.

Europe's profile is changing very fast. The end of the bipolar confrontation destroyed the mechanisms of control that existed and thawed the ethnic, religious and political conflicts that were latent for many years. We are witness to a resurgence of a modern xenophobia that accompanies the new nationalisms.

The reappearance of this common enemy perpetuates poverty and underdevelopment, and the discrimination of immigrants from the Third World. We do not hesitate to signal this as the new "apartheid" of the 1990s. A pitiless and brutal apartheid. In a recent study presented at an ILO and the Human Rights Commission seminar, Mr. Leandro Despouy stated that the "extreme poverty and deprivation, with the resulting social and economic exclusion, are

potential factors of population exodus just as dictatorships and persecutions were in the past". He added, "Far from that, the total exclusion which every day more and more men, women, and especially children, suffer in our sub-continent, are often the most graphic expression of the absolute negation of their economic, social and cultural rights which, in turn, not only has a negative impact but generally prevents or hampers the true exercise of civil and political rights. Hence the dramatic question posed with more frequency and urgency on the continent, day by day: How much misery can democracy endure? 1/

Any doctrine of differentiation is morally wrong and socially unjust, and contravenes all the international instruments in this matter, and in the last instance, seriously affects the individual. We member States of the United Nations need to materialize our efforts in the fight against discrimination and we need to make human dignity a reality that is tangible, concrete and upon which it will be possible to establish responsibilities.

Although the international community has initiated actions to counter the most cruel of the manifestations of "ethnic cleansing", these have not come quickly enough. The industrialized countries have been timid in their condemnations and the actions have not been taken in time. Conflicting interests are impeding effective actions to avoid the massacres of today. The Security Council, which, in the case of other political and humanitarian crises in the South, has not economized with efforts or with time and has been "efficient", in this case has refrained from taking timely action, permitting a repetition of massacres that cost millions of lives in World War II.

Any form is discrimination against human beings for motives of race, religion, colour or ethnic origin, are actions that threaten and violate the fundamental rights of man.

Another form of violation of human rights, no less important, is the traffic of children, child prostitution and the use of children in pornography, a phenomenon that has come about in several countries. As with the situation of street children, these are matters that demand strong action, since they destroy human dignity.

We do not understand why these problems appear to be secondary in the Human Rights commissions and why action to counter them is not a priority. This behaviour is a clear example of the selective treatment that has been given to human rights. It is an example of politicization. The debate has been polarized between the accused and the accusers, when the responsibility to promote and protect human rights is the universal responsibility of all the States and a universal right of all individuals.

Conclusions

Human Rights need to be addressed seriously. The World Conference needs to do an exhaustive review of the manner in which the fundamental concepts of human rights are being applied today as well as of the system and the instruments for improving the efficiency of their implementation. It is not a matter of creating new instruments, but, of using those that already exist. The proliferation of extraordinary and ad hoc mechanisms should be avoided,

since it has been demonstrated that they are largely ineffective. The mandate of the different organisms of the world and regional systems needs to be clearly delimited.

To conclude, I want to affirm emphatically that in the world today there is not a universal culture of human rights that incorporates interdependence, universality, objectivity, impartiality and non-selectivity. The responsibility of States in complying with their obligations, under the commitment to defend human rights, should be framed with respect for the principles of self-determination and not intervention.

If all countries had the honesty to recognize this lack of commitment and if all of us were willing to accept the integral nature of human rights, I can say to you today that we would be sowing the seeds for a lasting peace founded on respect for human rights.

Note

1/ LEANDRO DESPOUY: General Assembly, A/CONF.157.LACRM/9; WORLD CONFERENCE ON HUMAN RIGHTS, Regional Meeting for Latin America and the Caribbean. "Analysis of the causes of refugee movements and other forms of forced emigration in South America - New strategies in international cooperation". p.3.

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CONSIDERATION OF THE FINAL OUTCOME OF THE WORLD CONFERENCE, TAKING INTO CONSIDERATION THE PREPARATORY WORK AND THE CONCLUSIONS OF THE REGIONAL MEETINGS

Contribution from International Federation Terre des Hommes

The attention of the Preparatory Committee is drawn to the attached statement from International Federation Terre des Hommes, a non-governmental organization in consultative status with the Economic and Social Council (category II).

I) With reference to our written communication sent to the Chairperson of the Third Preparatory Committee for the World Conference on Human Rights, we welcome the many written and oral statements which have been made within the preparatory conferences and regional proceedings in support of the inclusion of the Rights of the Child as an integral part of the broader discussion of human rights at the World Conference. The fact that the Convention on the Rights of the Child has been ratified by an unprecedented number of States must not overshadow the fact that its actual implementation and effect on the everyday lives of millions of children worldwide are far from being felt by the majority today. We agree with and gladly quote Mr. James P. Grant, Executive Director of UNICEF, in saying that "gross violations of human rights lead to the majority of the deaths of 35,000 children every day in developing countries". Children in industrialized countries are not spared by this phenomenon.

II) Children cannot be isolated from violations affecting their families and adults in general. Thus, although children have their "own" Convention, full implementation of ALL human rights treaties as well as concrete measures to improve procedures, making them more efficient, effective and inter-active, are indispensable. For example, we recommend that specific emergency procedures be devised within the Human Rights structures to provide for direct handling of communications concerning any violations of the Rights of the Child.

III) Sufficiently mature children and young people should be ensured of acceptance as active participants in the World Conference, both at official and non-governmental proceedings. They could possibly be members of official or NGO delegations. We feel it important that their voices be heard at a <u>substantive</u> level.

IV) Because of the holistic nature of the Convention on the Rights of the Child, and for the reasons briefly outlined in point I) above, we strongly recommend that greater emphasis be put on the Rights of the Child in several of the principles proposed in Working Paper A/Conf.157/PC/82, as

well as in that document's section devoted to a programme for action. The modifications we recommend are as follows :

(Changes in wording are underlined)

Principle 12 :

The World Conference, recalling the principle of First Call for Children, and welcoming the early ratification of the Convention on the Rights of the Child by a large number of States, recalls that these rights form an integral and indivisible part of universal human rights, and stresses the need for full implementation of the Convention through all appropriate national and international legislative, administrative and other measures. To strengthen the enjoyment of these rights, additional substantive and procedural provisions, including the right of petition, should be examined in the context of this Convention. The particular needs of the child should be given priority status in the United Nations system-wide action on human rights. National and international programmes should be established for the protection of children and adolescents, in particular the girl child, abandoned children, sexually and economically exploited children, children living in the streets and refugee children. In all actions concerning them, the views of the children should be given due weight.

Principle 14 :

Modify the second sentence as follows :

It stresses that universal acceptance of all the major human rights treaties, keeping the level of reservations as low as possible and and fully compatible with the fundamental purpose of each treaty, is imperative for all States.

Principle 18 :

Faced with urgent situations of massive or continuing and grave violations of human rights and/or humanitarian law, or an immiment threat thereof, the United Nations are urged to develop means to respond more effectively and more speedily to such situations, including genocide, so-called "ethnic cleansing" or "social cleansing", systematic rape of women and children, extrajudicial executions and other indiscriminate killings including those of children, enforced or involuntary disappearances, torture, flagrant acts of racism and racial discrimination, slavery, massive acts of violence against women and children, armed attacks on

civilians and the blocking of humanitarian relief. (Last two sentences unchanged.)

Under section DRAFT PROGRAMME OF ACTION :

Sub-section B, Paragraph 3 :

At the end of paragraph 3, add 2 sentences :

Children of minority groups and indigenous peoples should not be discriminated against in terms of health, education or any other services. They should be allowed to use and learn the language of their own community within the system of education.

After sub-section C, add a new sub-section D :

D. The Rights of the Child

D-1) The World Conference urges that all measures be taken to reach the targets set at the World Summit for Children held in 1990, particularly with regard to reduction of child mortality and morbidity, and access to basic education.

D-2) Measures to ensure the protection of and assistance to children in armed conflicts should be taken. Children physically or psychologically traumatized by war should receive adequate aftercare and rehabilitation. Children should not be recruited as soldiers. Respect for humanitarian norms in all cases of armed conflict should be guaranteed by States parties to the Convention on the Rights of the Child. The World Conference also urges the elaboration of a draft optional protocol to this Convention, raising to 18 years the age mentioned in its Article 38.

D-3) Economic reforms or structural adjustments should include clauses providing social buffers protecting the rights and well-being of children. Abusive and harmful exploitation of child labour, child prostitution or the sale of children for whatever purpose should be actively combatted. All national or international economic and/or financial organizations are called upon to respect and enforce such efforts.

. . . . . .

The above statement is co-sponsored by the following organizations :

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